

TENNESSEE REGULATORY AUTHORITY

Sara Kyle, Chairman
Lynn Greer, Director
Melvin Malone, Director



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

NOTICE OF COMPLAINT AND HEARING

DOCKET: 01-00362

IN RE: Docket to Determine the Compliance of BellSouth
Telecommunications, Inc.'s Operations Support Systems with State
and Federal Regulations

DATE: February 5, 2002

At a regularly scheduled Authority Conference of the Tennessee Regulatory Authority ("Authority") held on February 5, 2002, a majority of the Directors determined that BellSouth Telecommunications, Inc. ("BellSouth") failed to comply with lawful orders and/or findings of the agency.¹ At that Conference, the Authority set a Hearing on **Wednesday, February 20, 2002** for the purpose of determining whether BellSouth Telecommunications, Inc. ("BellSouth") shall be subject to a penalty, pursuant to Tenn. Code Ann. § 65-4-120, for violating or failing to comply with the following lawful orders of the Authority:

- (1) the Pre-Hearing Officer's November 8, 2001 oral order directing BellSouth to either produce the requested data or explain in writing why producing such data was not technically feasible by November 13, 2001;
- (2) the Pre-Hearing Officer's November 14, 2001 *Order Resolving Procedural Motions*, which ordered BellSouth to "provide no later than **Tuesday, November 20, 2001** the achieved flow-through rate and the CLEC error excluded flow-through rate for each individual state in BellSouth's region and for the BellSouth region in total for the following categories: a) LNP; b) UNE; c) Business Resale; d) Residential Resale; and e) Total (*i.e.*, UNE, Business Resale, and Residential Resale combined);"²

¹ Chairman Kyle did not vote with the majority.

² *In re Docket to Determine the Compliance of BellSouth Telecommunications, Inc.'s Operations Support Systems with State and Federal Regulations*, TRA Docket No. 01-00362 (*Order Resolving Procedural Motions*, p. 27).

- (3) the Pre-Hearing Officer's November 21, 2002 *Order Denying Motion to Clarify and Compelling Discovery*, which required BellSouth to provide the requested information not later than 12:00 Noon on Thursday, November 29, 2002;
- (3) the oral order of December 3, 2001 requiring BellSouth to provide the requested information within forty-five (45) days; and
- (4) the December 31, 2001 *Order on Procedural Matters* which memorialized the oral ruling of December 3, 2001.

At the Hearing, the Directors will consider the record of the proceedings, argument of the parties and any other relevant information proffered by the parties regarding the nature and number of violations and the calculation of any penalty. The parties are directed to file briefs on these issues no later than **2:00 p.m. on Wednesday, February 13, 2002.**

The Hearing in this proceeding shall take place at **9:00 a.m. on Wednesday, February 20, 2002** in the Hearing Room on the Ground Floor at 460 James Robertson Parkway, Nashville, TN. The Hearing shall be conducted in accordance with the Tennessee Uniform Administrative Procedures Act, Tenn. Code Ann. §4-5-101 *et seq.* All parties are entitled to be represented by counsel.

Participants with disabilities who require special accommodations or alternate communications formats should contact the Tennessee Regulatory Authority ADA-EEO/AA Coordinator/Officer, 460 James Robertson Parkway, Nashville, Tennessee 37243-0505 or 1-800-342-8359 so that reasonable accommodations can be made.

FOR THE TENNESSEE REGULATORY AUTHORITY:

A handwritten signature in black ink, appearing to read 'K. David Waddell', with a stylized, overlapping initial 'K'.

K. David Waddell, Executive Secretary

cc: Parties of Record